ANITA P. ARRIOLA, ESQ. JOAQUIN C. ARRIOLA, JR., ESQ. FILED ARRIOLA, COWAN & ARRIOLA DISTRICT COURT OF GUAM 259 MARTYR STREET, SUITE 201 FILED JAN 0 8 2003 DISTRICT COURT OF GUAM HAGÅTÑA, GUAM 96910 MARY L. M. MORAN Telephone: (671) 477-9731/33 JAN 1 7 2003 CLERK OF COURT Telecopier: (671) 477-9734 5.01 P.M. MARY L. M. MOBAN CLERK OF COURT Counsel for Plaintiff LOUIS VUITTON MALLETIER UNITED STATES DISTRICT COURT OF GVA CIVIL CASE NO. 03-00001 LOUIS VUITTON MALLETIER, TEMPORARY RESTRAINING ORDER, SEIZURE ORDER, ORDER TO SHOW Plaintiff, 96910 CAUSE FOR PRELIMINARY INJUNCTION, ORDER SEALING FILE VS. AND ORDER ACCELERATING JENNY DOE aka JENNY SALGADO, & ARRIOLA. HAGATNA. DISCOVERY and DOES I THROUGH XX. Defendants.

Plaintiff Louis Vuitton Malletier (hereinafter "Plaintiff"), having applied ex parte for a temporary restraining order and seizure order; order to show cause for preliminary injunction, under the Lanham Act (15 U.S.C. § 1051, et seq.), as amended by the Trademark Counterfeiting Act of 1984, Public Law 98-473; order sealing file; and order accelerating discovery, for the reason the defendant appears to be, among other things, selling goods bearing counterfeits of plaintiff defendant appears to be, among other things, selling goods bearing counterfeits of plaintiff registered trademarks, and the Court having reviewed the verified complaint, pleadings, moving papers, exhibits and affidavits submitted by plaintiff, the Court finds that it clearly appears that

(a) plaintiff is likely to succeed in showing that the defendant used counterfeits plaintiff's Louis Vuitton, "LV", and other trademarks and logos (hereinafter collectively "Plaintiff's Trademarks"), registered in the Principal Register in the United States Patent

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ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

Trademark office, in connection with the sale, offering for sale, and/or distribution of bags, wallets, and other items; and that

- (b) the sale of such merchandise bearing counterfeits of Plaintiff's Trademarks will result in an immediate and irreparable injury to plaintiff if seizure of such counterfeit merchandise and the records pertaining thereto is not ordered; and that
- (c) the defendant, or other persons acting in concert with defendant, may destroy, move, hide or otherwise make the merchandise bearing counterfeits of Plaintiff's Trademarks and defendant's business records inaccessible to the court, if plaintiff was to proceed on notice to defendant, thus frustrating the ultimate relief plaintiff seek in this action; and that
- (d) the harm to plaintiff of denying the requested ex parte seizure order outweighs the harm to the legitimate interests of defendant from granting such an order; and that
- (e) plaintiff has sufficiently shown that the items and documents to be seized are located at 149 Pondersoa St., Yigo, Guam, and in a white Honda Civic 4-door sedan with a license plate number "TAL2479"; and that
  - (f) plaintiff has not publicized the proposed seizure order; and that
- (g) plaintiff has provided the United States Attorney with reasonable notice of their application for an ex parte seizure order; and that
- (h) entry of an order other than an ex parte seizure order will not adequately achieve the purposes of 15 U.S.C. § 1114 to preserve plaintiff's remedies for trademark infringement, including destruction of merchandise bearing counterfeits of Plaintiff's Trademarks and evidence of plaintiff's lost profits and damages.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendant, and each of them, and any person acting in concert with them who is served with a copy

- (a) Enjoining and restraining defendant, her officers, agents, servants, employees, attorneys and any persons in active concert or participation with them, from:
- (i) using Plaintiff's trade names or Trademarks including "Louis Vuitton," or "LV," trademarks and logos or any reproduction, counterfeit copy, or colorable imitation of said marks, trade names or logos in connection with the advertising, embroidering, printing, distributing, offering for sale, or sale of bags, purses, luggage, leather goods, jewelry, accessories, apparel, or other items, or in any manner likely to cause others to believe that defendant's products are connected with plaintiff or plaintiff's genuine Louis Vuitton products; and
- (ii) passing off, inducing, or enabling others to sell or pass off any merchandise which is not genuine Louis Vuitton merchandise as and for genuine Louis Vuitton merchandise; and
- (iii) committing any other acts calculated to cause purchasers to believe that defendant's products are genuine Louis Vuitton products or that defendant is an authorized distributor of Louis Vuitton products; and
- (iv) shipping, delivering, holding for sale, distributing, importing, returning, transferring or otherwise moving or disposing of in any manner such bags, purses, luggage, leather goods, jewelry, accessories, apparel, or other items falsely bearing the Louis Vuitton and Chanel

trademarks, trade names or logos or any reproduction, counterfeit, copy or colorable imitation of the same; and

- (v) assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in the above subparagraphs (i) through (iv); and
- (b) Impounding, in the custody of plaintiff's counsel as substitute custodian for the court, during the pendency of this action or until further order of the court, the bags, purses, luggage, leather goods, jewelry, accessories, apparel, or other items, labels, heat transfers, molds, screens, printing and/or embroidering devices, advertising, packaging and other materials, merchandise and business records seized pursuant to the provisions of this Order hereinafter set forth;
- (c) Ordering defendant to deliver up to plaintiff's counsel for impoundment, pursuant to court order, all such items, or things bearing counterfeits of Plaintiff's Trademarks remaining in their possession, custody or control, and it is further

ORDERED, ADJUDGED AND DECREED that pending the hearing of plaintiff's application for a preliminary injunction, defendant, her agents, servants, employees, attorneys and any persons acting in concert or participation with them, or having knowledge of this Order by personal service or otherwise, be, and they are, hereby temporarily restrained from (a) committing any of the acts set forth in subparagraphs (i) through (v) of the preceding section; (b) moving, destroying or otherwise disposing of any goods, labels, heat transfers, molds, screens, printing or embroidering devices, or other items or documents bearing or relating to the Louis Vuitton trademarks or trade names or logos of plaintiff, and (c) removing, destroying or otherwise disposing of business records or documents relating in any way to the manufacture, printing, importation, acquisition, purchase, distribution or sale of goods or otherwise relating to merchandise bearing the Louis Vuitton trademarks, trade names or logos of plaintiff.

IT IS FURTHER ORDERED that the temporary restraining order shall remain in effect until the date set herein for hearing on the order to show cause or such further dates set by the Court, unless the defendant stipulates, or have not objected, to the preliminary injunction and that the defendant is placed upon notice that failure to attend the hearing shall result in confirmation of the seizure and the immediate issuance of a preliminary injunction deemed to take effect immediately upon the expiration or dismissal of this temporary restraining order; and

IT IS FURTHER ORDERED that the United States Marshal and/or any other peace officer of the Territory of Guam, including but not limited to Guam Superior Court Marshals or U.S. Customs officials, accompanied by counsel for plaintiff and/or persons under their supervision, be and are hereby directed to seize and impound forthwith:

- (a) All clothing; handbags; luggage; leather goods such as wallets, agendas, keycases, cigarette cases, coin holders, and cosmetic purses; fine jewelry and costume jewelry including earrings, brooches, necklaces, bracelets, rings, and anklets; shoes; belts; scarves; ties; hats; gloves; purses, fanny packs, labels, boxes, packages, advertisements and any other goods, items or merchandise in defendant's possession, custody or control bearing any counterfeit, copy or substantially indistinguishable designations of, or for, any of plaintiff's Louis Vuitton trademarks, trade names or logos;
- (b) All plates, molds, matrices, heat transfers, printing or embroidering or silkscreening apparatus utilized in making counterfeit Louis Vuitton merchandise and other means of making any counterfeits or infringing marks, copies of or substantially indistinguishable designations of plaintiff's Louis Vuitton trademarks, trade names or logos;
- (c) All books and records documenting or reasonably appearing to document or relate to the manufacture, purchase, importation, sale, printing, distribution or receipt of any merchandise

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

bearing, or intended to bear, any counterfeit, copy or substantially indistinguishable designations of, or for, plaintiff's Louis Vuitton trademarks, trade names or logos or other things involved in such violation; including, but without limitation, all such infringing merchandise or means of making or transporting such merchandise, and all such related records and things on the person or under the control of defendant or which defendant attempts to sell, or are holding, in any location in the Territory of Guam under said defendant's care, custody, possession or control, including any carton, room, vehicle, cabinet, desk, container or other package in which said counterfeit and/or infringing merchandise, labels or business records is found at any locations, including but not limited to defendant's dwelling located at 149 Ponderosa St., Yigo, Guam, and the vehicle known as a white Honda Civic 4-door sedan, license plate number TAL2479.

IT IS FURTHER ORDERED that the United States Marshal or other peace officer of the Territory of Guam, including but not limited to Superior Court Marshals of U.S. Customs officials, accomplishing such seizure shall employ whatever reasonable force is necessary to enter the premises owned, leased or occupied by defendant or the locations to be searched, and to inspect the contents of any rooms, closets, cabinets, vehicles, containers, desks, packages, cartons or documents located on or near any of the above locations or premises and in doing so may arrest any person impeding him or her from effecting such seizure; and

IT IS FURTHER ORDERED that plaintiff or its agents shall promptly inspect all items seized, and if any items are reasonably determinable to be improperly seized, such items are to be returned to defendant as soon as reasonably possible and to this end, defendant or her agents are required to give to the peace officer the correct name, address, phone number and directions to the place they can be reached and failure to do the same may result in contempt of Court; and

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IT IS FURTHER ORDERED that any such merchandise or means of making such merchandise or records and things seized shall be appropriately tagged to permit identification, that defendant shall be given a receipt therefor and such merchandise, records or things shall be impounded in the custody or control of plaintiff's counsel or their designees as substitute custodian of the Court, pending further order of this Court and shall be made available for inventory or inspection by any party or its counsel during normal business hours; and that any such records seized shall likewise be impounded and shall be subject to a protective order whereby access thereto shall be initially restricted to plaintiff's counsel, defendant and defendant's counsel, who shall all be permitted to inspect and copy such records, and such records shall be copied and the originals returned to defendant as soon as possible. This protective order, limiting the access to such documents, shall expire on the date set above for the hearing on the Order to Show Cause unless extended by order of this Court, so that at such hearing and thereafter the contents of such records may be revealed, unless otherwise ordered by this Court; and

IT IS FURTHER ORDERED that plaintiff shall post a corporate surety bond, cash or a certified or attorney's check in the total amount of \$1,000.00 as security, determined adequate for the payment of such damages as any person may be entitled to recover as a result of a wrongful seizure, attempted seizure or restraint hereunder; and

IT IS FURTHER ORDERED that, sufficient cause having been shown, the above seizure shall take place and service of this Order, together with the Summons and Complaint, shall be made on defendant personally, or by delivery to an adult of suitable age, at defendant's place of business or residence or where defendant is selling or holding for sale the items or records to be seized, and that such service shall be deemed good and sufficient and shall take place within seven days from the date of this Order or such time as may be extended by this Court and, upon request by any

RRIOLA. COWAN & ARRIOLA, HAGATNA, GUAM 96910

defendant, plaintiff's attorneys shall supply such defendant with copies of all other supporting documents previously filed by plaintiff herein; and

IT IS FURTHER ORDERED that this action shall remain sealed by the Court until the date for hearing of the Order to Show Cause set forth above, whether or not the hearing is held on that date, at which time the Clerk may remove the seal. During the period that this record is sealed, all persons against whom this Order is issued shall have access to the record herein after the seizure is carried out.

IT IS FURTHER ORDERED that good cause having been shown that discovery herein may begin immediately and the time for defendant's responses to any request for production of documents or things served with this Order shall be shortened to be due the date of the hearing set forth above.

DEFENDANT IS HEREBY GIVEN NOTICE THAT UPON SERVICE OF THIS NOTICE DEFENDANT SHALL BE DEEMED TO HAVE ACTUAL NOTICE OF THE ISSUANCE AND TERMS OF THIS ORDER AND THAT ANY ACT BY ANY OF THEM OR BY PERSONS ACTING IN CONCERT WITH THEM IN VIOLATION OF ANY OF THE TERMS HEREOF MAY BE CONSIDERED AND PROSECUTED AS CONTEMPT OF THIS COURT.

Dated: 1863

Time:

HONORABLE JOHN S. UNPINGCO
Chef Judge District Court of Guern

Chlef Judge, District Court of Guam

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Page 8 of 20
DISTRICT COURT OF GUAM

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## PRESENTED BY:

ARRIOLA, COWAN & ARRIOLA Counsel for Plaintiff LOUIS VUITTON **MALLETIER** 

Dated: January 7, 2003

I HAVE PARTIALLY / EXECUTED THIS ORDER(5) BY TAKING CUSTODY OF THE WITHIN NAMED DROCK(S)

AND DELIVERING HIM / HER TO THE

MARSHALS RETURN

TRANSFER TO

## U.S. Department of Justice United States Marshals Service

#### PROCESS RECEIPT AND RETURN

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

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	NAME & TIT	LE (Typed or printed	<b>)</b>		AGEN	CY	D	ATE	\	SIGNATURE
David	A. Punza	lan, DUSM			ISMS		1/1	0/03	0	1884X

#### CHAIN OF CUSTODY

ITEM NO.	DATE	RELINQUISHED BY	RECEIVED BY	PURPOSE
1	1/10/03	NAME & AGENCY DPM 2-L USMJ SIGNATURE CODE	NAME & ACTIVITY Amely SIGNYURE JUNE Amely	Custody/storms
		NAME & AGENCY SIGNATURE	NAME & AGENCY SIGNATURE	
		NAME & AGENCY	NAME & AGENCY	
		SIGNATURE	SIGNATURE	7

(Over)

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### SEIZED PROPERTY AND EVIDENCE CONTROL

RECEIVED FROM (Nan	me and address)	€mn	y Sal	rado				
CASE NO.	CASE TITLE		0	,				•
CV 03-00001	Louis Vuit	ton Ma	lletier -vs-	Jenny	Doe	aka J	enny Sal	gado
SUBJECT (Name, addre	ss) (49 Po	nala	rosa Y	100	G-	. 4		
				<del></del>				
ITEM NO.	QTY.	DESCRI	IPTION OF ARTICLES identifying marks, con	S (Include n dition, valu	nodel, seria e, etc.)	ıl no.,		FORAGE OCATION
 შა		Mond	EDW/FEH	Cove	Car V (17	68)	In -	House
31	7 4	Mor	rogram Co			72 <i>0</i> 0 )	In-t	touse
32	ng. 3	Mono	gram Pur	se (b	,90)		In-+	fonse
33		WF	30x (# 30	78 )			In the	ns_
3t	3 X5	LV 1	Felt Bag	(Be	أعود (	color)	In-He	nse
35	1 5	LV	Felt Bac	y (Be	تعو ٥	dor	In the	mse
34	j M	LV	Felt Ba	9(Be	ing C	dor)	1n-H	ouse
37	1 4	LV	Felt Ba	9(130	cise C	<b>blor</b>	n-t	onse
I certify that I have receiv	red and hold myself accou	ntable for the	e articles listed above:					
	TLE (Typed or printed)	*	AGENCY		DATE		SiGNA	TURE
David A. Punz	alan, DUSM		USMS	. 1/	10/03	C	Yas	, <u> </u>
David A. Tunz	aran, bom		0010	<u> </u>	-0,00		1	<del>-</del>

#### **CHAIN OF CUSTODY**

ITEM NO.	DATE	RELINQUISHED BY	RECEIVED BY	PURPOSE	
)	111003	DPin 201 USM	SIGNATURE JULY Linds	Centolystony	
		NAME & AGÉNCY SIGNATURE	NAME & AGENCY SIGNATURE	,	
		NAME & AGENCY SIGNATURE	NAME & AGENCY SIGNATURE		

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UNITED STA	TES MARSHA	LS SERVICE
	DISTRICT OF	Guam

		SELZED	I KOI EKI	1 AND EVIE			
	FROM (Na:	me and address)	Igalo				
CASE NO.		CASE TITLE	0				
CV 03-0	00001	Louis V	uitton Mall	etier -vs- Je	enny Doe al	ka Jenny	Salgado
SUBJECT (	Name, addre	199 Pc	ondaros	a, 4130	6n		
				, 0			
ITEN	M NO.	QTY.		TON OF ARTICLES (Inc entifying marks, condition		no.,	STORAGE LOCATION
36		1	1	am carry on		I W N	ite car)
39		1	LY check	sered handbag	price try it;	75 Hon	da Civio
40		1	Ly handb	ag (wrapped in	plastic)		(+
4	(	1	i i	dbag black	· 6 📞 (	00255)	) <i>"</i>
4	2_	1		istard handbu		(5112	8) "
4	·3			nogram smul	•	(690)	(1
4	+		ı	ogram handbag	て ひかんり		1.6
à	25		LV mon	nogram wallet/c	ard holder X	(1768)	
I certify that	I have receiv	ved and hold myself a	accountable for the a	rticles listed above:			
		TLE (Typed or print		AGENCY	DATE	Si	GNATURE
David A	A. Punz	alan, DUSM		USMS	1/10/03	Coffe	772-6-
			СН	AIN OF CUSTODY	Y		
ITEM NO.	DATE	RELINQU	JISHED BY	RECEIV	ED BY		PURPOSE
	<del> </del>	NAME & AGENCY	c Dua	NAME & AGENCY	Angela	1.0	DIL

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SIGNATURE

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NAME & AGENCY

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NAME & AGENCY





#### SEIZED PROPERTY AND EVIDENCE CONTROL

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		Damy	Salg	udo						
CASE NO.		EASE TITLE	J				_	_		
CV 03-00		Louis Vuit			s– Jer	ny Doe	aka Je	nny Sa	lgado	
SUBJECT (Na	ame, addres	149 Por	2000	sa Yi	ST .	G-				
				<del></del>	<del>)                                    </del>		- #i · ·			
ITEM I	NO.	QTY.		ION OF ARTICI			l 110.,		STORAGE LOCATION	
40			LK-Han	dbag b	lack,	Charge	2) (11,	30)	Auto	-Honda
41		1	LVn	nonogram	han	d buy p	+4/5	28	/1	Civi
48		1	LVn	nonogram	buc	kpack	(51/3	2A)	11	<u> </u>
		<b></b>	-200-al	Latte		de		/		
		$\sim$ 1	APL						<del>, ,                                    </del>	
	·	- Copy			<del></del>					
			***							
I certify that I	have receiv	ed and hold myself accour	ntable for the a	ticles listed abov	e:					
		TLE (Typed or printed)		AGENCY		DATE		SiGN.	ATURE	
David A.	. Punza	alan, DUSM		USMS		1/10/03	0	Ya	12/	
								•		
				AIN OF CUS	TODY		<del></del>			<del></del>
ITEM NO.	DATE	RELINQUISHE	D BY		ECEIVE	BY		PT	JRPOSE	
	./ ,	Day JA. Pim	sal, USM		LP.	finals		usto	48/Sto	Face
'     1	10/03	JE COSTE L'OUT	·	SIGNATURE	tu R	(king)			<u> </u>	•
		NAME & AGENCY		NAME & AGENC	Ý				•••	
		SIGNATURE		SIGNATURE						
		NAME & AGENCY	· , · · · · · · · · · · · · · · · · · ·	NAME & AGENC	Y					
		SIGNATURE		SIGNATURE						
				·			I,	<u>.</u>		
				(Over)						

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UNITED STA	TES MARSHA	LS SERVICE
	DISTRICT OF	Guam

RECEIVED FROM (Nar	me and address)  CASE TITLE	al mal	2.				
CASE NO.	CASE TIPLE			10 10 10 10 10 10 10 10 10 10 10 10 10 1			
CV 03-00001	Louis Vuit	ton Mal	lletier –vs– J	enny Doe a	ika J	enny Salgado	
SUBJECT (Name, addres	ss)	cla .	0- 0	11:	A		
Inh	ouse 1.	49/	Ponderosa	141 <del>30</del> ,	6		
		<del></del>		·			
ITEM NO.	QTY.	DESCRI	PTION OF ARTICLES (In identifying marks, condition		no.,	STORAGE LOCATION	
49		Vien	r Somic com	rufer		House	
50	1 _	Plan	cunter has	A-drive		House	
51		Pri	inter (Eps.	House			
52		ker	160and for	House			
53	11	Ci	S. non Di	eks		home	
54	1	Sn	sel ben of	paper to	35	House	
55		Sm	ell capher	strap	0	House	
			ALIA	0			
I certify that I have receiv	red and hold myself accou	ntable for the	e articles listed above:				
NAME & TITLE (Typed or printed)  AGENCY  DATE  SIGNATURE						SIGNATURE	
David A. Punz	David A. Punzalan, DUSM USMS 1/10/03						
		c	HAIN OF CUSTOD	$\mathbf{Y}$			
DIFFERENCE							

ITEM NO.	DATE	RELINQUISHED BY	RECEIVED BY	PURPOSE	
1	90/03	NAME & AGENCY DEM SIGNATURE SIGNATURE	NAME & AGENCY P. Arrisla SIGNATURE CHUTH P. Church		
		NAME & AGENCY SIGNATURE	NAME & AGENCY SIGNATURE	or hand Drive	
		NAME & AGENCY	NAME & AGENCY		
		SIGNATURE	SIGNATURE		

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